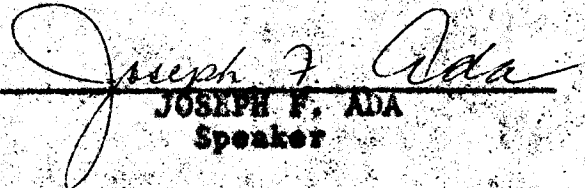



FOURTEENTH GUAM LEGISLATURE
1977 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR


This is to certify that Substitute Bill No. 425, "An Act to add a new Chapter XII to Title LXI, Government Code of Guam, relative to drinking water", was on the 6th day of December, 1977, duly and regularly passed.


JOSEPH F. ADA
Speaker

ATTESTED:


ERNESTO M. ESPALDON
Legislative Secretary

This Act was received by the Governor this 17th day of
December, 1977, at 1:25 o'clock P.M.


RUTH F. ROM FAI
Assistant Staff Officer
Governor's Office

APPROVED:

/s/ RICARDO J. BORDALLO
RICARDO J. BORDALLO
Governor of Guam

DATED: December 27, 1977
2:37 P.M.
Public Law 14-90

FOURTEENTH GUAM LEGISLATURE
1977 (FIRST) Regular Session

Bill No. 425
(As Substituted by
the Committee on
Health, Welfare,
& Ecology)

Introduced by Committee on Rules
at the request of
the Governor.

AN ACT TO ADD A NEW CHAPTER XII TO TITLE LXI,
GOVERNMENT CODE OF GUAM, RELATIVE TO DRINKING
WATER.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. A new Chapter XII is hereby added to Title LXI,
3 Government Code of Guam, to read as follows:

4 "CHAPTER XII

5 SAFE DRINKING WATER ACT

6 Section 57285. This Act shall be known as the Guam
7 Safe Drinking Water Act.

8 Section 57286. Statement of Policy. It is hereby
9 declared to be the public policy of this territory and the
10 purpose of this Act to protect public water supplies from
11 contamination and to require the provision of safe drinking
12 water for public consumption in order to protect human health
13 and safety to the greatest degree practicable.

14 To these ends, it is the purpose of this Act to pro-
15 vide a comprehensive territory-wide program for the protec-
16 tion and provision of safe drinking water.

17 Section 57287. Definitions. As used in this Chapter:

18 (a) 'Agency' means the Guam Environmental Pro-
19 tection Agency as established by Chapter I, Title LXI
20 of the Government Code of Guam.

1 (b) 'Administrator' means the Administrator of
2 the Guam Environmental Protection Agency.

3 (c) 'Public water system' means a system owned
4 or operated by any person which provides piped water
5 for human consumption if the system has at least
6 fifteen (15) service connections or regularly serves
7 at least twenty-five (25) individuals, such term
8 includes:

9 (1) Any collection, treatment, storage, and
10 distribution facilities controlled by the system
11 and used primarily in connection with the system;
12 and

13 (2) Any collection or pretreatment storage
14 facilities not under control of, but which are
15 used primarily in connection with the system.

16 (d) 'Board' means the Board of Directors of the
17 Guam Environmental Protection Agency.

18 (e) 'Person' means an individual, corporation,
19 company, association, partnership, federal agency, or
20 subdivision or agency of the government of Guam.

21 (f) 'Federal Agency' means any department, agency,
22 or instrumentality of the United States.

23 (g) 'Supplier of Water' means any person who owns
24 or operates a public water system.

25 (h) 'Contaminant' means any physical, chemical,
26 biological, or radiological substance or matter in
27 water which, as determined by the Agency, may have an
28 adverse effect upon human health or may be harmful to
29 the public welfare.

1 (i) 'Federal Administrator' means the Adminis-
2 trator of the United States Environmental Protection
3 Agency.

4 (j) 'Federal Act' means the Safe Drinking Water
5 Act, Public Law 93-523.

6 (k) 'Primary Drinking Water Regulation' means a
7 regulation which:

8 (1) applies to public water systems;

9 (2) specifies contaminants which, as
10 determined by the Agency, may have any adverse
11 effect on the health of persons;

12 (3) specifies for each contaminant either

13 (i) a maximum contaminant level if, as
14 determined by the Agency, it is economically
15 and technologically feasible to ascertain the
16 level of such contaminant in public water
17 systems; or

18 (ii) if, as determined by the agency, it
19 is not economically or technologically fea-
20 sible to ascertain the contaminant level,
21 each treatment technique known to the Agency
22 which leads to a reduction in the level of
23 such contaminant sufficient to satisfy the
24 requirements of Section 57289; and

25 (4) contains criteria and procedures to
26 assure a supply of drinking water, the quality of
27 which does not exceed maximum contaminant levels;
28 it includes quality control and testing procedures
29 to insure compliance with such standards and
30 proper operation and maintenance of the system,
31 and requirements as to:

1 (i) the minimum quality of water which
2 may be taken into the system; and

3 (ii) siting for new facilities for public
4 water systems.

5 (l) 'Secondary Drinking Water Regulation' means a
6 regulation which applies to public water systems and
7 which specifies the maximum contaminant level which,
8 in the judgment of the Agency, are requisite to protect
9 the public welfare.

10 (m) 'National Primary Drinking Water Regulations'
11 means primary drinking water regulations promulgated by
12 the Federal Environmental Protection Agency pursuant
13 to the Federal Act.

14 (n) 'National Secondary Drinking Water Regula-
15 tions' means secondary drinking water regulations pro-
16 mulgated by the Federal Environmental Protection Agency
17 pursuant to the Federal Act.

18 (o) 'Injection' means the subsurface emplacement
19 of any material gaseous, liquid, or solid, or any
20 admixture thereof, which may add a contaminant to
21 underground waters.

22 Section 57288. Administration. The Agency is herein
23 authorized to:

24 (a) perform any and all acts necessary to carry
25 out the purposes and requirements of this Chapter;

26 (b) administer and enforce the provisions of this
27 Chapter and all rules, regulations, and orders promul-
28 gated;

1 (c) enter into agreements, contracts, or coopera-
2 tive arrangements with any person for the purpose of
3 carrying out this Act;

4 (d) receive financial and technical assistance
5 from the Federal Government and other public or
6 private agencies to carry out the provisions of this
7 Act;

8 (e) participate in related programs of any public
9 or private agencies or organizations;

10 (f) establish adequate fiscal controls and
11 accounting procedures to assure proper disbursement of
12 and an accounting for funds appropriated or received
13 for the purpose of carrying out this Chapter;

14 (g) delegate those responsibilities and duties as
15 appropriate for the purpose of administering the
16 requirements of this Chapter;

17 (h) establish and collect fees for conducting
18 plan reviews, inspections and laboratory analyses as
19 necessary for the purpose of carrying out this Chapter;

20 (i) prescribe such regulations as necessary to
21 carry out functions under this Chapter;

22 (j) make such investigations and inspections as
23 may be necessary to insure compliance with this
24 Chapter; and

25 (k) encourage voluntary cooperation by persons
26 and affected groups to achieve the purposes of this
27 Act.

1 Section 57289. Drinking Water Standards:

2 (a) The Agency shall promulgate and enforce pri-
3 mary drinking water regulations and may promulgate
4 and enforce secondary drinking water regulations. Pri-
5 mary drinking water regulations shall protect health
6 using technology, treatment techniques, and other
7 means which are generally available. Maximum contami-
8 nant levels covered by primary drinking water regula-
9 tions shall be set at a level at which no known or
10 anticipated adverse effects on the health of persons
11 occur and which allows an adequate margin of safety.
12 Treatment techniques covered by primary drinking water
13 regulations shall require treatment necessary to pre-
14 vent known or anticipated adverse effects on the health
15 of persons. Primary drinking water regulations shall
16 be no less stringent than the national primary drinking
17 water regulations in effect at that time.

18 (b) Maximum contaminant levels covered by secon-
19 dary drinking water regulations may be set at a level
20 which shall protect the public welfare. Treatment
21 techniques covered by secondary drinking water regula-
22 tions may require treatment necessary to prevent known
23 or anticipated adverse effects on the welfare of per-
24 sons. Secondary drinking water regulations should be
25 no less stringent than the national secondary drinking
26 water regulations.

27 (c) Subject to Section 57294, primary and secon-
28 dary drinking water regulations shall apply to each
29 public water system in the territory including those
30 owned and operated by the government of Guam or
31 Federal Agencies.

1 (d) The Agency shall adopt and implement proce-
2 dures for the enforcement of primary drinking water
3 regulations, including monitoring, inspection, and
4 recordkeeping procedures which are not in conflict
5 with the Federal Act.

6 (e) The Agency may promulate and enforce regula-
7 tions relating to cross-connection and backflow pre-
8 vention control.

9 (f) The Agency shall promulgate regulations
10 establishing an underground injection control program.
11 Such program shall prohibit, effective not later than
12 December 15, 1977, any underground injection which is
13 not authorized by a permit issued by the Agency except
14 that the Agency may authorize underground injection by
15 regulation. Underground injection authorized by re-
16 gulation shall not endanger drinking water sources.
17 Any underground injection control program shall:

18 (1) set standards and prohibitions con-
19 trolling any underground injection if such injec-
20 tion may result in the presence of any contaminant
21 in underground water which supplies or may be
22 expected to supply any public water system, and
23 if the presence of such contaminant may result
24 in such system not complying with any national
25 primary drinking water regulations or may other-
26 wise adversely affect the health of persons.

1 (2) require, in the case of a program which
2 authorizes underground injection by permit, that
3 the applicant for the permit satisfy the Adminis-
4 trator that the underground injection will meet the
5 requirements of subsection (f)(1) of this section.

6 (3) conform to all requirements of the
7 Federal Act and any applicable regulations pro-
8 mulgated thereunder.

9 (4) include inspection, monitoring, record-
10 keeping and reporting requirements.

11 Section 57290. Review of plans and specifications.
12 Plans and specifications for the construction or substantial
13 alteration of a public water system shall be submitted to
14 the Administrator for approval in the form and manner
15 specified in regulations adopted by the Agency.

16 Section 57291. Right of Entry and Inspection.

17 (a) The Administrator or his authorized repre-
18 sentative may enter at all reasonable times in or
19 upon the property of any public water system for the
20 purpose of inspecting and investigating the adequacy
21 and sanitary condition of the water supply and the
22 quality of its water.

23 (b) The Agency may enter into cooperative agree-
24 ments with Federal Agencies to implement the provisions
25 of this paragraph on Federal facilities.

26 Section 57292. Laboratory Certification. No labora-
27 tory shall perform the tests and analyses required by the
28 Administrator pursuant to this Chapter for any public water
29 system without first obtaining a certificate issued by the
30 Administrator that such laboratory is competent and equipped
31 to conduct such tests. Certificates shall be renewed every

1 three (3) years after the date of issuance. The Adminis-
2 trator may revoke any certificate upon determination that
3 the laboratory is no longer competent or equipped to conduct
4 such tests or analyses.

5 Section 57293. Variances and Exemptions. The Board
6 may issue variances or exemptions from the regulations
7 issued pursuant to Section 57289 under conditions and in a
8 manner consistent with the public interests; however, such
9 variances or exemptions are not permitted under conditions
10 less stringent than the conditions under which variances
11 and exemptions may be granted under the Federal Act.

12 Section 57294. Notification of User and Regulatory
13 Agencies. Whenever a public water system:

14 (a) fails to comply with an applicable standard,
15 treatment technique or testing procedure requirement
16 of the primary drinking water regulations;

17 (b) fails to perform monitoring required by
18 regulations adopted by the Agency;

19 (c) is subject to a variance granted for an
20 inability to meet a standard requirement;

21 (d) is subject to an exemption; or

22 (e) fails to comply with the requirements pre-
23 scribed by a variance or exemption;

24 the public water system shall promptly notify the Adminis-
25 trator and users in a form and manner prescribed by regula-
26 tion by the Agency.

1 Section 57295. Imminent Hazards. The Agency may, upon
2 learning that a contaminant is present in or is likely
3 to enter a public water system and may present an imminent
4 and substantial danger to the public, take actions necessary
5 to protect the health of the public. The actions which
6 the Agency may take include but are not limited to:

7 (a) issuing such orders as may be necessary to
8 protect the health of persons who are or may be users
9 of such system (including travelers); and

10 (b) commencing a civil action for appropriate
11 relief, including a restraining order or permanent or
12 temporary injunction. Such action shall be conducted
13 in and by the Superior Court of Guam.

14 Section 57296. Plan for Emergency Provision of Water.
15 The Agency shall develop a plan for the provision of safe
16 drinking water under emergency circumstances. When the
17 Administrator determines that emergency circumstances exist
18 in the territory with respect to a need for safe drinking
19 water, he may take such actions as necessary with the
20 concurrence of the Governor of Guam to implement the plan
21 for safe drinking water.

22 Section 57297. Prohibited Acts. The following acts
23 are prohibited:

24 (a) Failure by a supplier of water to comply
25 with the requirements of Section 57294, or dissemination
26 by any supplier of false or misleading information
27 with respect to notices required pursuant to Section
28 57294 or with respect to remedial actions undertaken
29 to achieve compliance with primary drinking water
30 regulations;

1 (b) Failure by a supplier of water to comply
2 with regulations promulgated pursuant to Section 57289
3 or with the conditions for variances or exemptions
4 issued under Section 57293; and

5 (c) Failure by any person to comply with any order
6 issued by the Agency pursuant to this Chapter.

7 Section 57298. Remedies. The Administrator may enforce
8 this Chapter in either administrative or judicial proceedings:

9 (a) Administrative. If the Administrator deter-
10 mines that any person is violating any provision of
11 this Chapter, any rule or regulation promulgated there-
12 under, or any variance or exemption issued pursuant
13 thereto, the Administrator may have that person served
14 with a Notice of Violation and an Order. The notice
15 shall specify the alleged violation. The order may
16 require that the alleged violator do any or all of
17 the following: cease and desist from the violation;
18 pay a civil penalty not to exceed Five Thousand Dollars
19 (\$5,000) for each day of violation; or appear before
20 the Administrator at a time and place specified in the
21 order and answer the charges complained of. The
22 order shall become final ten (10) days after service
23 unless within those ten (10) days the alleged violator
24 requests in writing a hearing before the Board. Upon
25 such request, the Board shall specify a time and place
26 for the alleged violator to appear. When the Adminis-
27 trator issues an order for immediate action to protect
28 the public health from an imminent and substantial
29 danger, the Agency shall provide an opportunity for a
30 hearing within twenty-four (24) hours after service of

1 the order. After a hearing pursuant to this subsection
2 before the Board, the Board may affirm, modify, or
3 rescind the Administrator's order as appropriate.
4 The Administrator may institute a civil action in any
5 court of appropriate jurisdiction for the enforcement
6 of any order issued pursuant to this subsection.

7 (b) Judicial. The Administrator may institute a
8 civil action in the Superior Court of Guam for injunc-
9 tive relief to prevent violation of any order or
10 regulation issued pursuant to this Act in addition to
11 any other remedy provided for under this section.

12 (c) Nothing in this Act shall prevent the Agency
13 from making efforts to obtain voluntary compliance
14 through warning, conference or any other appropriate
15 means.

16 Section 57299. Hearings. (a) No rule or regulation
17 and no amendment thereof shall take effect except after
18 public hearing on due notice as provided in the Administra-
19 tive Adjudication Law, Government Code of Guam.

20 (b) Nothing in this section shall be construed to
21 require a hearing prior to the issuance of an imminent
22 hazard order pursuant to Section 57295 of this Act."

23 Section 2. Severability. The provisions of this Act are
24 severable; if any provision or application of this Act is held
25 invalid, such invalidity does not affect other provisions or
26 applications of this act which can be given effect without the
27 invalid provision or application.

28 Section 3. Effective Date. This Act shall take effect
29 upon its approval by the Governor.